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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3387 OF 2006

Mohammed Shakeel @ Mohd.
Sameer .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.S.S.Redij for applicant
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 10th October 2006

P.C.

. Heard learned Advocate for applicant and
A.P.P. for State.

2. Applicant has been arrested on 28th
January 2005 in connection with C.R.No.5 of 2004
registered with Nagpada Police Station for
offences punishable under sections 563, 367, 326
read with 34 I.P.C.

3. It is brought to my notice by the learned Advocate for the applicant that co-accused Shamshad @ Mohd.Raja was enlarged on bail on 25th June 2004. Thereafter, the charge sheet was filed only against the accused Shamshad @ Mohd.Raja and the case was committed to the Court of Sessions which is numbered as Sessions Case No.459 of 2005.

4. Thereafter, the applicant and Mohd.Shaikh @ Mohd.Saheb surrendered before police. Applicant is in custody since arrest. Supplementary charge sheet was filed on 18th March 2005. Other accused, who surrendered along with applicant Mohd.Saheb filed application for bail before the Court of Sessions bearing No.697 of 2005 which was rejected on 1st December 2005. However, he later on approached this Court and Criminal Application No.1728 of 2006 was allowed by this Court on 4th May 2006.

5. Apart from claiming parity, the learned Advocate submits that now investigations are complete, charge sheet is filed and there being no apprehension, the applicant should be granted bail.

6. Learned A.P.P. points out that the Additional Sessions Judge in his order passed on 1st December 2005 has specifically observed that the applicant has no roots in Mumbai. He is resident of Bihar and in such circumstances, it would be difficult for the prosecution to ensure his presence at the trial.

7. The order of learned Additional Sessions Judge is dated 1st December 2005 whereas this Court has enlarged co-accused Mohammed Saheb on 4th May 2006 on bail. It is not disputed that the role of applicant and that of the co-accused is on par.

8. Additionally I had directed the applicant

to file an undertaking before this Court and on 6th October 2006 an undertaking duly signed has been executed in which the applicant has undertaken to reside at the address mentioned in clause 2 of the undertaking. He has further undertaken that he would not change his residence without intimating the I.O. in C.R.No.5 of 2004. Further, he would attend Nagpada Police Station as and when directed by this Court. Undertaking accepted.

9. In the light of this undertaking, the following order would serve the ends of justice.

i) The applicant arrested in connection with C.R.No.5 of 2004 registered with Nagpada Police Station shall be enlarged in the sum of Rs.5,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to

condition that the applicant will remain present before the concerned investigating officer once in a month till conclusion of the trial. Applicant shall be enlarged on bail on his furnishing his residential address in Mumbai.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any

inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)